

UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket 0002 Re-Reissue)

In Re Application of: **Neil Y. Gilbert**

Reissue of: **RE 36,377**

Serial No.: **10/629,921**

Filed: **July 29, 2003**

For: **Collapsible Container**

Art Unit: 3727

Examiner: N. Newhouse

SUPPLEMENTAL (Second) REISSUE DECLARATION
37 C.F.R. §1.175

Mail Stop Reissue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned, Neil Y. Gilbert, declares that:

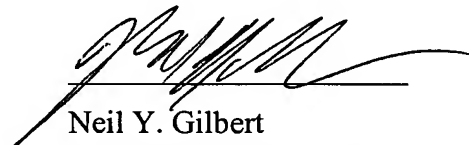
- (1) I am a patent attorney registered to practice before the United States Patent and Trademark Office (Registration No. 35,156).
- (2) I am a citizen of the United States.
- (3) I believe I am the original and first inventor of the subject matter claimed in the above-identified Reissue Application filed with this declaration.
- (4) I have reviewed and understand the contents of the present Reissue Application, including the claims, as filed herewith, including the enclosed Preliminary Amendment.
- (5) I acknowledge the duty to disclose to the Office all information known to be material to patentability as defined in 37 C.F.R. §1.56.
- (6) My residential address is: 7 Old Oak Way, Falmouth, ME, 04105.
- (7) My preferred correspondence address is: IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook ME 04092 (Tel. 207-856-8252).

- (8) I am the inventor and attorney responsible for drafting and prosecuting U.S. Patent No. Re. 36,377 that issued November 9, 1999 (“the ‘377 Patent”), the patent now sought to be reissued.
- (9) I am also the inventor and attorney responsible for drafting and prosecuting U.S. Patent No. 5,370,250 (now surrendered in favor of Re. 36,377).
- (10) The patent application that gave rise to the ‘377 Patent is directed towards a longitudinally collapsible container.
- (11) Upon filing the application that gave rise to the ‘377 Patent, on November 20, 1996, it was my belief that the claims properly covered the invention disclosed therein. Thus, when the ‘377 Patent issued, I believed that the ‘370 Patent was neither inoperative nor invalid.
- (12) I have now formed a belief that the ‘377 Patent is wholly or partly inoperative or invalid by reason of a defective specification and/or by reason of claiming more than I had a right to claim.
- (13) One error sought to be corrected by the present reissue application relates to the use of the term “bottom portion” in several of the ‘377 Patent claims when the proper antecedent basis should relate back to the term “base portion” (see, for example, amended claims 2, 3, 20, 26, 27, 36, 41, 46, 49, 55, and 60).
- (14) By amending the claims to replace all occurrences of “bottom portion” with “base portion”, I believe the claims, as amended, are in better compliance with 35 U.S.C. §112.
- (15) Another error sought to be corrected by the present reissue application relates to claiming more than I had the right to claim. More specifically, US Patent No. 2,139,143 (Wiswell) was brought to my attention in a communication dated June 15, 2000, after the issuance of the ‘377 Patent on November 9, 1999. The communication (a copy is attached to this Declaration as Exhibit 1) included text and a claim chart comparing the disclosure of 2,139,143 to claim 27 of the ‘377 Patent.

- (16) While I do not agree with all statements in Exhibit 1, to the extent one or more of the '377 Patent claims read on the disclosure of 2,139,143, I believe all claims submitted in the present reissue application, as amended, are in full compliance with 35 U.S.C. and any error in claiming more than I had the right to claim is thereby corrected.
- (17) A second US patent, 5,226,551 (Robbins, III) was brought to my attention in the June 15, 2000 communication (Exhibit 1) and in a March 2, 2000 communication (Exhibit 2). While I do not agree with all statements in Exhibit 2, and I believe 5,226,551 is not "prior art" to the presently claimed invention, I also believe all claims submitted in the present reissue application are in full compliance with 35 U.S.C. and any error in claiming more than I had the right to claims is thereby corrected.
- (18) I believe all errors being corrected in the present reissue application arose without deceptive intention on my part.
- (19) The undersigned declares further that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements or the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: 7/29/04


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Registration No. 35,156

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